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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,502	07/09/2001	Chang-Hoi Koo	678-703 (P9857)	4908
28249	7590	07/22/2005	EXAMINER	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			HOM, SHICK C	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/901,502	Applicant(s) KOO ET AL.	
	Examiner Shick C. Hom	Art Unit 2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 12-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 31-39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Claims 12-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/1/05.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Drawings

3. Figures 1, 2A-B, 3, and 14 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not

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accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 11 lines 1-2 which recite "the dedicated channel" is not clear as to whether it is reciting ---the first dedicated channel--- or ---the second dedicated channel--- or both.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maxemchuk (6,614,773) in view of Mouly et al. (4,866,788).

Regarding claims 1-11:

Maxemchuk discloses a method for transmitting packet data and side information including a sequence number of the packet data in a CDMA (Code Division Multiple Access) mobile communication system employing a HARQ (Hybrid Automatic Repeat request) scheme for performing retransmission after an initial transmission (see col. 1 lines 41-62 which recite the CDMA cellular system transmitting data in the form of packets and

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col. 2 lines 22-26 which recite transmitting information packets and embedded sequences), comprising the steps of: transmitting the packet data and the side information over a first channel when performing the initial transmission; and retransmitting the packet data and the side information over a second channel (see col. 8 which recite the step of transmitting signals over one channel and retransmitting over another channel clearly anticipate transmitting the packet data and the side information over a first channel when performing the initial transmission; and retransmitting the packet data and the side information over a second channel) as in claims 1, 4, 7, 10.

For claims 1-11, Maxemchuk discloses all the subject matter of the claimed invention with the exception of retransmission being in response to a retransmission request message; wherein the first channel being a common channel and the second channel being a dedicated channel as in claim 1, the first channel being the dedicated channel and the second channel being the common channel as in claim 7, the first and second channels being the first and second dedicated channels, respectively, as in claim 10, and packet data being transmitted in the dedicated channel and side information being transmitted in the common channel as in claim 4; wherein the common channel is a physical downlink shared channel (DSCH) as in claims 2, 6, 9; and wherein the

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dedicated channel is a dedicated physical channel (DPCH) as in claims 3, 5, 8, 11.

Mouly et al. from the same or similar fields of endeavor teach that it is known to provide retransmission being in response to a retransmission request message (see col. 1 lines 17-36 which recite retransmission for the request and col. 2 lines 41-59 which recite retransmission being dependent of power levels and the activity of the channel); wherein the first channel being a common channel and the second channel being a dedicated channel as in claim 1, the first channel being the dedicated channel and the second channel being the common channel as in claim 7, the first and second channels being the first and second dedicated channels, respectively, as in claim 10; wherein the common channel is a physical downlink shared channel (DSCH) as in claims 2, 6, 9; and wherein the dedicated channel is a dedicated physical channel (DPCH) as in claims 3, 5, 8, 11 (see Fig. 1 which shows the use of the two dedicated channel and the shared channel which clearly anticipate the use of a dedicated channel, common channel, and two dedicated channels as in claims 1, 7, 10, and col. 3 lines 9-17 which recite the request being transmitted over the shared channel and data over the dedicated channel clearly anticipate the side information being transmitter over the common channel and packet

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data over the dedicated channel as in claim 4). Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide retransmission being in response to a retransmission request message; wherein the first channel being a common channel and the second channel being a dedicated channel, the first channel being the dedicated channel and the second channel being the common channel, the first and second channels being the first and second dedicated channels, respectively, and packet data being transmitted in the dedicated channel and side information being transmitted in the common channel; wherein the common channel is a physical downlink shared channel (DSCH); and wherein the dedicated channel is a dedicated physical channel (DPCH) as taught by Mouly et al. in the communications method of Maxemchuk.

The retransmission being in response to a retransmission request message; wherein the first channel being a common channel and the second channel being a dedicated channel, the first channel being the dedicated channel and the second channel being the common channel, the first and second channels being the first and second dedicated channels, respectively, and packet data being transmitted in the dedicated channel and side information being transmitted in the common channel can be implemented by providing retransmission request message, the shared channel,

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and dedicated channels in the two-channel approach of Maxemchuk. The motivation for using retransmission request message, the shared channel, and dedicated channels as taught by Mouly et al. in the communication method of Maxemchuk being that it provides more reliability for the system since the system can better avoid repeated collision or transmission failure by using a different channel for retransmission.

Allowable Subject Matter

8. Claims 31-39 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Forssell et al. disclose method and devices for implementing a continued packet-switched radio connection.

Kumar et al. disclose low back haul reactivation delay for high-speed packet data services in DCMA systems.

Averbuch et al. disclose method and apparatus for providing information to a plurality of communication units in a wireless communication system.


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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C. Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Monday to Friday with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SH


DANGTON
PRIMARY EXAMINER